

REMARKS

The amendment to the specification addresses Examiner's request.

Support for the lower limit of the recited temperature range is found in page 4, line 26.

The pending claims are directed to a dyed article prepared by a process that includes immersion of the molded article in a dyeing bath. The bath contains water, dye, a plasticizing agent, and a leveling agent.

In rejecting the claims the Examiner asserted that the components of the bath "do not remain in the article". Based on this perception the Examiner rejected the claimed article over "similar dyed resin article".

Declarations by Archey and Martin (enclosed*) support Applicants' position that the presently claimed article is patentably different from the articles made by prior art processes. Accordingly articles dyed in accordance with the invention contains bath components in detectable amounts. The presently submitted evidence militate against the above stated Examiner's assertion and serve to rebut the stated rejections.

Claims 13-20 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative under 35 U.S.C. 103(a) as obvious over U.S. patent 4,812,142 (herein Brodmann).

The standard for anticipation is one of strict identity. To anticipate a claim for a patent, a single prior art document must contain all the essential elements of the claimed invention. In Re Donohue 226 USPQ 619.

Brodmann disclosed a dyeing solution the components of which do not describe the ones entailed in the present invention. Articles thus dyed could not possibly contain the components that characterize the presently claimed article.

Reconsideration and withdrawal of the rejection alleging anticipation by Brodmann are requested.

* The presently submitted unsigned documents will be supplemented shortly by properly signed Declarations.

Nothing in Brodmann suggests modifying the dyeing solution in a manner describing the present invention. The rejection alleging obviousness is untenable and its reconsideration and retraction are urged.

Claims 13,14,16, and 18-20 stand rejected under 35 U.S.C. 102(b) as anticipated by or in the alternative under 35 U.S.C. 103(a) as obvious over Sieloff (U.S. Patent 5,453,100).

Sieloff disclosed dyeing solution that contains an impregnating solvent and a moderating solvent. Water, a key component of the present process, is not included in Sieloff's dyeing solution.

Articles dyed by Sieloff's process could not possibly contain the components that characterize the presently claimed article. Reconsideration and withdrawal of the rejection alleging anticipation by Sieloff are requested.

Nothing in Sieloff suggests modifying its dyeing solution in a manner describing the present invention. The rejection alleging obviousness is untenable and its reconsideration and retraction are urged.

Claims 13-20 stand rejected under 35 U.S.C. 102(b) as anticipated by or in the alternative under 35 U.S.C. 103(a) as obvious over Bianco et al (U.S. patent 3,514,246).

Bianco disclosed a dyeing solution that contains an aliphatic hydrocarbon solvent (column 2, line 28-30) and as such a system that is completely different from the presently claimed bath. Articles made in accordance with Bianco do not describe the ones presently claimed. Reconsideration and withdrawal of the rejection alleging anticipation by Bianco are requested.

Nothing in Bianco suggests modifying the dyeing solution in a manner describing the presently claimed bath. The rejection alleging obviousness is untenable and its reconsideration and retraction are urged.

The Archey and Martin Declarations support Applicants' position that the presently claimed article is patentably different from the articles made by prior art processes. The evidence thus presented militates against the assertion that "the patentability of the product by process claims does not depend on its method of production" and is believe to address and overcome the stated rejections.

In objecting to the specification for allegedly failing to provide proper antecedent basis for the claimed subject matter the Examiner required correction relative to "polyurethane or alldiglycol carbonate" (sp.) that are included within the claimed Markush group of polymeric resins. Applicants call attention to that the recited "polyurethane" and "allyldiglycol carbonate" find support in the specification in page 3, lines 11 and 7 respectively.

The amendment to Claim 13 addresses the Examiner's statement relative to the temperature entailed in dyeing polyurethane.

Believing the above represent a complete response to the Office Action and that the application is in condition for allowance, Applicants request the earliest issuance of an indication to this effect.

Respectfully submitted,

By



Aron Preis
Attorney for Applicants
Reg. No. 29,426

Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3814
FACSIMILE PHONE NUMBER:
(412) 777-3902
s:\shared\jmf\AP7093d